

**CHAPTER 32 ADMINISTRATION AND ENFORCEMENT****Section**

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**3200 GENERAL PROVISIONS**

- 3200.1 In accordance with § 11 of the Zoning Act 1938, approved June 20, 1938 (52 Stat. 797, 801, as amended; D.C. Official Code § 6-610.10 (2001)(formerly codified at D.C. Code § 5-427 (1999 Supp.))), the Mayor shall administer and enforce the Zoning Regulations.
- 3200.2 In accordance with § 8 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799, as amended; D.C. Official Code § 6-641.07(f)(2001)(formerly codified at D.C. Code § 5-424 (f) (1994 Repl.))), appeals to the Board of Zoning Adjustment may be taken by any person aggrieved, or organization authorized to represent that person, or by any officer or department of the District or federal government, affected by any decision of an administrative officer granting or refusing a building permit or granting or withholding a certificate of occupancy or any other administrative decision based in whole or part upon any Zoning Regulations or Zoning Maps adopted pursuant to the Zoning Act.
- 3200.3 The fee for any appeal or application made in accordance with the provisions of this chapter shall be as determined by the Mayor.

**AUTHORITY:** Unless otherwise noted, the authority for this chapter is the Zoning Act 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 to 6-641.15 (2001)(formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. & 1999 Supp.))).

**SOURCE:** §§ 8101.1 and 8102.1 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8573-74 (October 20, 2000).

**3201 PENALTIES**

- 3201.1 As provided in § 10 of the Zoning Act (52 Stat. 797, 800, as amended; D.C. Official Code § 6-641.09 (2001)(formerly codified at D.C. Code § 5-426 (1994 Repl.))), the owner or person in charge of or maintaining any building or land, or any other person who erects, constructs, reconstructs, alters, converts, maintains, or uses any building or structure, or part of a building or structure, or land in violation of the provisions of this title shall, upon conviction for that violation, be punished by a fine of not more than one hundred dollars (\$100) per day for each and every day the violation continues.

- 3201.2 The Corporation Counsel of the District of Columbia, or any neighboring property owner or occupant who would be specially damaged by any violation of this title, may, in addition to all other remedies provided by law, institute injunction or other appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use; or to correct or abate a violation; or to prevent the occupancy of the buildings, structure, or land.

**SOURCE:** §§ 8105.1 and 8105.2 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8574 (October 20, 2000).

## **3202 BUILDING PERMITS**

- 3202.1 Except as provided in §§ 3202.5, 3202.7, or 3202.8, a building permit shall not be issued for the proposed erection, construction, conversion, or alteration of any structure unless that structure complies with the provisions of this title.
- 3202.2 To determine compliance with the provisions of this title, each application for a building permit shall be accompanied by any of the following that is deemed necessary:
- (a) Scaled drawings showing the:
    - (1) Exact shape, topography, and dimensions of the lot to be built upon;
    - (2) Plan, elevation, and location by dimensions of all existing and proposed structures, and the proposed use of those structures;
    - (3) Parking and loading plans and the basis for computation of those plans; and
    - (4) Other information necessary to determine compliance with this title; and
  - (b) An official building plat, in duplicate, prepared by the Surveyor of the District of Columbia, upon which the applicant shall indicate in ink and to the same scale dimensions:
    - (1) All existing and proposed structures;
    - (2) The number, size, and shape of all open parking spaces, open loading berths, and approaches to all parking and loading facilities; and
    - (3) Other information necessary to determine compliance with the provisions of this title.

- 3202.3 Except as provided in § 2516 and § 5 of An Act To amend an Act of Congress approved March 2, 1893, entitled “An Act To provide a permanent system of highways in that part of the District of Columbia lying outside of cities, and for other purposes, approved June 28, 1898 (30 Stat. 519, 520, as amended; D.C. Official Code § 9-101.05(2001)(formerly codified at D.C. Code § 7-114 (1995 Repl.))), a building permit shall not be issued for the proposed erection, construction, or conversion of any principal structure, or for any addition to any principal structure, unless the land for the proposed erection, construction, or conversion has been divided so that each structure will be on a separate lot of record; except buildings and structures related to a fixed right-of-way mass transit system approved by the Council of the District of Columbia. Any combination of commercial occupancies separated in their entirety, erected, or maintained in a single ownership shall be considered as one (1) structure.
- 3202.4 Any construction authorized by a permit may be carried to completion pursuant to the provisions of this title in effect on the date that the permit is issued, subject to the following conditions:
- (a) The permit holder shall begin construction work within two (2) years of the date on which the permit is issued; and
  - (b) Any amendment of the permit shall comply with the provisions of this title in effect on the date the permit is amended.
- 3202.5 If an application for a building permit is filed when the Zoning Commission has pending before it a proceeding to consider an amendment of the zone district classification of the site of the proposed construction, the processing of the application and the completion of work pursuant to the permit shall be governed as follows:
- (a) If an application for a building permit is filed when the Zoning Commission has pending before it a proceeding to consider an amendment of the zone district classification of the site of the proposed construction, the processing of the application and completion of the work shall be governed by § 3202.4;
  - (b) If the application is filed after the date on which the Zoning Commission has made a decision to hold a hearing on the amendment, the application may be processed, and any work authorized by the permit may be carried to completion, only in accordance with the zone district classification of the site pursuant to the final decision of the Zoning Commission in the proceeding, or in accordance with the most restrictive zone district classification being considered for the site;

- (c) For purposes of paragraph (b) of this section, the phrase “zone district classification being considered for the site” shall include any zone district classification that the Zoning Commission has decided to notice for adoption and the zone district classification that is in effect on the date the application is filed;
  - (d) The limitation in paragraph (b) of this subsection shall not prevent the issuance of a building permit that is necessary in an emergency to protect the public health or safety; and
  - (e) The limitation in paragraph (b) of this subsection shall not apply to a decision to hold a hearing on an application that is filed by an owner of property, pursuant to §102.2(a).
- 3202.6 All applications for building permits authorized by orders of the Board of Zoning Adjustment may be processed in accordance with the Zoning Regulations in effect on the date those orders are promulgated; Provided, that all applications for building permits shall be accompanied by the plans and other information required by § 3202.2, which shall be sufficiently complete to permit processing without substantial change or deviation.
- 3202.7 A building permit issued in accordance with §§ 3202.4 through 3202.6 shall not be renewable if permitted to lapse, unless it is reprocessed in accordance with all provisions of this title.

**SOURCE:** §§ 8103.1 through 8103.8 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 34 DCR 433 (January 16, 1987); Final Rulemaking published at 35 DCR 790 (February 5, 1988); Final Rulemaking published at 36 DCR 653 (January 20, 1989); Final Rulemaking published at 36 DCR 7827, 7828 (November 10, 1989); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8574-75 (October 20, 2000).

### **3203 CERTIFICATES OF OCCUPANCY**

- 3203.1 Except as provided in §§ 3203.7, 3203.8, or 3203.9, no person shall use any structure, land, or part of any structure or land for any purpose other than a one-family dwelling until a certificate of occupancy has been issued to that person stating that the use complies with the provisions of this title and the D.C. Construction Code, Title 12 DCMR.
- 3203.2 Certificates of occupancy shall not be required for separate apartments or bachelor apartments in an apartment house, tenements or apartments in a tenement house, or offices in an office building, if a certificate of occupancy is issued for the entire structure.

- 3203.3 Except in the case of a church, all certificates of occupancy shall be conspicuously posted in or upon the premises to which they apply so that they may be seen readily by anyone entering the premises.
- 3203.4 If the erection or alteration of a structure is contemplated, a certificate of occupancy for that structure shall not be issued until the erection or alteration is completed to the point of availability of occupancy for use, except as provided in § 3203.5.
- 3203.5 Where an alteration to a structure is required by law in order to effect compliance with regulations adopted pursuant to the Means of Egress Law, approved December 24, 1942 (56 Stat. 1083, as amended; D.C. Official Code §§ 6-703.03 to 6-703.09 (2001))(formerly codified at D.C. Code §§ 5-518 to 5-524 (1994 Repl.)), a certificate of occupancy for that structure may be issued prior to the alteration; Provided, that the use of the structure for which a certificate of occupancy is desired, if a new use, is not one that would require a greater amount of egress or fire protection facilities under the Means of Egress Law than is required for the use existing prior to the alteration.
- 3203.6 Any certificate of occupancy issued under the terms of §§ 3203.4 or 3203.5 shall be subject to compliance with regulations adopted pursuant to the Means of Egress Law.
- 3203.7 If an application for a certificate of occupancy is filed when the Zoning Commission has pending before it a proceeding to consider an amendment of the zone district classification of the site of the proposed use, the processing of the application, and the establishment of the occupancy, shall be governed as follows:
- (a) If the application is filed on or before the date on which the Zoning Commission makes a decision to hold a hearing on the amendment, the processing of the application and completion of the work shall be governed by § 3203.8;
  - (b) Except as otherwise provided in § 3203.11, if the application is filed after the date on which the Zoning Commission has made a decision to hold a hearing on the amendment, the application may be processed, and any use authorized by the certificate of occupancy may be established and maintained only in accordance with the most restrictive provision of the zone district classifications being considered for the site or in accordance with the zone district classifications of the site pursuant to the final decision of the Zoning Commission in the proceeding;
  - (c) For purposes of paragraph (b) of this subsection, the phrase “zone district classifications being considered for the site” shall include any zone district classification that the Zoning Commission has decided to notice for adoption and the zone district classification that is in effect on the date the application is filed;

- (d) The limitation in paragraph (b) of this subsection shall not apply to a decision to hold a hearing on an application to amend the Zoning Regulations or Zoning Maps filed by an owner of property pursuant to § 102.2(a) of this title; and
  - (e) The limitation in paragraph (b) of this subsection shall not apply to an application for a certificate of occupancy that only changes the identity of the owner or occupant and that does not change a use authorized by a certificate of occupancy that was issued either before the decision to hold a hearing on the amendment or pursuant to paragraph (a) of this subsection.
- 3203.8 Any use that is authorized by a certificate of occupancy may be established and continued pursuant to the terms of the certificate and the provisions of this title in effect on the date that the certificate is issued, subject to the following conditions:
- (a) The use shall be designated on the certificate of occupancy in terms of a use classification that is established by this title;
  - (b) The use shall be established within six (6) months of the date on which the certificate is issued; and
  - (c) Any amendment of the use authorized by the certificate shall comply with the provisions of this title in effect on the date that the certificate is amended.
- 3203.9 Applications for certificates of occupancy authorized by orders of the Board of Zoning Adjustment may be processed in accordance with the Zoning Regulations in effect on the date the orders were promulgated; provided, that all applications for certificates of occupancy shall be accompanied by information sufficiently complete to permit processing without substantial change or deviation.
- 3203.10 Certificates of occupancy issued in accordance with §§ 3203.7, 3203.8, or 3203.9 shall not be renewable if permitted to lapse unless processed in accordance with all provisions of this title.
- 3203.11 This subsection shall govern the issuance of a certificate of occupancy for the use of a structure, or part thereof, if the establishment of the use is dependent upon the erection, construction, conversion, or alteration of the structure, or part thereof; provided:
- (a) The use authorized shall be designated as a proposed use at the time of application for the building permit on which the use depends;
  - (b) A building permit shall be issued in compliance with § 3202;

- (c) At the time of issuance of the building permit that is required by this subsection, the proposed use shall be designated in a provisional certificate of occupancy; and
- (d) The use designated in the provisional certificate of occupancy shall comply with all provisions of this title in effect on the date on which the building permit required by this subsection is issued.

3203.12 An Electronic Equipment Facility (EEF) that occupied at least fifty percent (50%) of the gross floor area of the space owned or leased within a building by the EEF for EEF use on October 16, 2000, pursuant to a valid certificate of occupancy, but for which a building permit or certificate of occupancy has not yet been issued for the entire owned or leased space, shall be permitted to complete construction and occupancy within the entire owned or leased space as a matter-of-right, provided that the use is registered with the Zoning Administrator within ninety (90) days after the effective date of this section.

**SOURCE:** §§ 8104.1 through 8104.10 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 34 DCR 433 (January 16, 1987); Final Rulemaking published at 36 DCR 653, 654 (January 20, 1989); Final Rulemaking published at 36 DCR 7827 (November 10, 1989); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8575-76 (October 20, 2000); and Final Rulemaking published at 48 DCR 9830, 9841 (October 26, 2001).

3204 **[DELETED]** 39 DCR 8312, 8322 (November 13, 1992)

## 3205 COMPLIANCE WITH CONDITIONS IN ORDERS

- 3205.1 The provisions of this section shall apply when a building permit or certificate of occupancy has been issued under the authority of an order of the Board of Zoning Adjustment or the Zoning Commission, and the order of the Board or Commission sets forth any condition to the issuance of the building permit or certificate of occupancy, or to the approval of a variance, special exception, or planned unit development.
- 3205.2 If the order of the Board or Commission conditions the issuance of a building permit or certificate of occupancy upon the recordation of a covenant, then, for purposes of §§ 3205.4 and 3205.5, each term and condition in the covenant shall be treated as a condition to the issuance of the building permit or the certificate of occupancy.
- 3205.3 If a building permit or certificate of occupancy has been issued under the authority of a decision of the Board to approve a special exception or variance, then for purposes of §§ 3205.4 and 3205.5, each condition to the approval of the special exception or variance shall be treated as a condition to the issuance of the building permit or certificate of occupancy.

- 3205.4 Any person who owns, controls, occupies, maintains, or uses any building, structure, or land, or any part of any building, structure, or land, shall at all times comply with any condition to the issuance of the certificate of occupancy for the building, structure, or land, or part thereof.
- 3205.5 Any person who erects, constructs, reconstructs, alters, converts, owns, controls, occupies, maintains, or uses any building, structure, or any part of any building or structure shall at all times comply with any condition to the issuance of the building permit for the building, structure, or part thereof.

**SOURCE:** Final Rulemaking published at 34 DCR 2699 (April 24, 1987); as amended by Final Rulemaking published at 38 DCR 612, 646 (January 18, 1991); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8576 (October 20, 2000).